

**\*\*NOT FOR PRINTED PUBLICATION\*\***

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

LUFKIN DIVISION

ELLOYD JOHNSON

§

VS.

§

CIVIL ACTION NO. 9:20-CV-38

DIRECTOR, TDCJ-CID

§

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ACCEPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Elloyd Johnson, a prisoner confined at the Polunsky Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff requested leave to proceed *in forma pauperis*.

The Court ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommended denying plaintiff leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(g) and dismissing the action unless plaintiff paid the \$400 filing fee within fourteen days after the Report and Recommendation was entered.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and the pleadings. Plaintiff filed objections to the Magistrate Judge's Report and Recommendation.

The Court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the Court concludes the objections are without merit. Plaintiff has not demonstrated that he is in imminent danger of serious

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physical injury, and he has not paid the filing fee. Therefore, the action should be dismissed without prejudice.

**ORDER**

Accordingly, plaintiff's objections (document no. 4) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (document no. 3) is **ACCEPTED**. A final judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

**So Ordered and Signed**

**Jun 3, 2020**

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark  
Senior Judge